

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UE 219**

In the Matter of

PACIFICORP,  
dba PACIFIC POWER

Application to Implement the Provisions of  
Senate Bill 76.

**OPENING BRIEF OF KLAMATH  
RIVER RENEWAL CORPORATION**

The Klamath River Renewal Corporation (“Renewal Corporation”) respectfully submits its Opening Brief in support of its request that the Commission amend Funding Agreement DM #7810225, as approved in Order No. 17-018, to authorize disbursement of the remaining accrued interest held in the Oregon Trust.

**I. INTRODUCTION**

The Renewal Corporation has requested that the Commission authorize disbursement of the remaining accrued interest to the Renewal Corporation to help pay for removal of the dams of the Klamath Hydroelectric Project, including related river and land remediation work (the “Project”).<sup>1</sup> The remaining accrued interest, \$4,876,639 as of December 31, 2023,<sup>2</sup> is needed to complete dam removal, and disbursement of the remaining accrued interest to the Renewal Corporation complies with applicable law and other relevant authorities. The only Oregon law that could require a refund of the remaining accrued interest to PacifiCorp’s customers, ORS 757.735(9), has not been triggered because the amounts collected from PacifiCorp’s customers

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<sup>1</sup> The Renewal Corporation filed a Supplement to its December 12, 2022 Disbursement Request on June 1, 2023. <https://edocs.puc.state.or.us/efdocs/HAH/ue219hah165839.pdf>. Following that, the Renewal Corporation filed a Request for Order to Amend Funding Agreement DM #7810225 on November 13, 2023. <https://edocs.puc.state.or.us/efdocs/HAO/ue219hao17831.pdf>. The Renewal Corporation incorporates those documents by this reference.

<sup>2</sup> The figure stated in previous filings was \$4,747,365 as of April 30, 2023.

through the surcharges do not exceed the amounts allowed or needed to complete the Project. The only applicable authority on point permits any additional accrued interest to be used to complete the Project. Therefore, the Commission should grant the Renewal Corporation's request, amend the Funding Agreement, and authorize disbursement of the remaining accrued interest to the Renewal Corporation to pay for the Project.

## **II. BACKGROUND FACTS**

### **A. The 2008 Klamath Agreement in Principle.**

In November 2008, PacifiCorp, the governors of Oregon and California, and the U.S. Secretary of the Interior, entered into the historic Klamath Agreement in Principle ("KAP"),<sup>3</sup> setting the course for removal of the dams of the Klamath Hydroelectric Project, including related river and land remediation work. The KAP established a "target" date for dam removal to commence in January 2020 and estimated that the Project would cost \$450 million. KAP, Sections VI(A) & VII(C). The KAP also provided that the actual removal date would depend on a number of conditions, including obtaining all regulatory approvals.

Among other things, the KAP included an agreement for the sources of funding for the Project: \$250 million was to come from a California bond, and the remaining \$200 million would come from contributions from PacifiCorp's Oregon and California customers based upon surcharges to be set by the California Public Utilities Commission and the Public Utility Commission of Oregon. *Id.*, Section VI(A).

### **B. 2009's Oregon Senate Bill 76.**

In 2009, Oregon lawmakers took the next step towards making dam removal a reality by enacting Senate Bill 76, codified as ORS 757.732 – 757.744 ("SB 76"). Like the KAP, SB 76 contemplated the parties would execute a "final agreement," and required that to be filed with the

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<sup>3</sup> The Agreement in Principle is Attachment 2 to the Renewal Corporation's November 13, 2023 filing in this docket. <https://edocs.puc.state.or.us/efdocs/HAO/ue219hao17831.pdf>

Commission “along with full and complete copies of all analyses or studies that relate to the rate-related costs, benefits and risks for customers of removing or relicensing Klamath River dams.” ORS 757.736(1). SB 76 also required PacifiCorp to file at the same time “tariffs for the collection of two nonbypassable surcharges from its customers for the purpose of paying the costs of removing Klamath River dams....” ORS 757.736(2). SB 76 mandated that the Commission “shall require PacifiCorp to begin collecting the surcharges on the date that the filing is made under subsection (1) of this section, or on January 1, 2010, whichever is later....” *Id.*

The surcharges to be collected from PacifiCorp’s customers were for the purpose of “fund[ing] Oregon’s share of the customer contribution of \$200 million identified in” the KAP. ORS 757.736(3). SB 76 also established a cap on “the total amount collected in a calendar year” of 2 percent of PacifiCorp’s most recent annual revenue requirement. *Id.* The surcharges were required to “be calculated based on a collection schedule that will fund, by December 31, 2019, Oregon’s share of the customer contribution of \$200 million identified in the” KAP. 757.736(7). Further, “to the extent practicable,” in setting the rate for the surcharges, the Commission was required to “account for the actual and expected changes in interest rates on the collected funds over the collection period.” *Id.* SB 76 required that “all amounts collected under the surcharges ... shall be paid into the appropriate trust account established under ORS 757.738.” ORS 757.736(8).

### **C. The Klamath Hydroelectric Settlement Agreement.**

In February 2010, PacifiCorp and the U.S. Department of the Interior, the states of California and Oregon, the Yurok, Karuk, and Klamath Tribes, agricultural interests, and conservation groups and commercial fishermen, entered into the Klamath Hydroelectric Settlement Agreement (the “KHSA”).<sup>4</sup> The KHSA anticipated that dam removal would begin on

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<sup>4</sup> The 2010 KHSA is attached as Appendix A to Commission Order No. 10-364. <https://apps.puc.state.or.us/orders/2010ords/10-364.pdf>

January 1, 2020, subject to certain conditions being met. KHSA, Section 7.3.1. The KHSA provided that PacifiCorp needed to collect about \$172 million from its California and Oregon customers to fund the total customer contribution of \$200 million, because the parties anticipated that approximately \$28 million in interest would be earned on the funds placed in the trust account during the collection period commencing in 2010 through the end of 2019, before money would be needed to pay for the Project. KHSA, Section 4.1.1. The KHSA assigned 92 percent of the \$200 million customer contribution (\$184 million) to PacifiCorp's Oregon customers and the remainder (\$16 million) to its California customers. *Id.*

Notably, the KHSA acknowledged that “it is not possible to precisely estimate the amount of interest that will accrue in the Klamath Trust Accounts,” and it expressly addressed how additional interest would be handled: “To the extent the interest in the accounts exceeds \$28,000,000, the additional earnings may be used as a Value to Customers unless the funds are required for Facilities Removal.” KHSA, Section 7.3.8(A). That section also provides: “Nothing in this paragraph will limit the Customer Contribution to less than \$200,000,000.”

The parties to the 2010 KHSA agreed to an amendment in 2016 to require approval of dam removal by the Federal Energy Regulatory Commission (“FERC”) under the Federal Power Act.<sup>5</sup> The 2010 KHSA had anticipated direct Congressional approval.

**D. The establishment and collection of surcharges.**

As required by ORS 757.736(1) and (2), PacifiCorp filed the KHSA with the Commission, along with proposed surcharges, in March 2010. PacifiCorp calculated the surcharges to collect \$158.24 million from its Oregon customers (92 percent of the \$172 million estimated to be collected via surcharges in both states). Order No. 10-364 at 14.

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<sup>5</sup> The Amended KHSA is Exhibit 3 to PacifiCorp's Application for Approval of a Property Transfer Agreement with the Klamath River Renewal Corporation.  
<https://edocs.puc.state.or.us/efdocs/HAQ/ue219haq13328.pdf>

The surcharges were calculated based on an estimated interest rate of 3.5 percent. *Id.* Commission Staff thought this estimated rate was too high and intervenor ICNU (predecessor to AWEC) thought it was too low. The Commission noted that the “interest rate is an assumption and actual earnings may vary.” *Id.* In 2010, the Commission approved the surcharges as proposed by PacifiCorp, but required annual review of the surcharges to ensure that the collection rate remained appropriate to achieve Oregon’s share of the customer contribution in light of variations in interest rates and power sales by PacifiCorp. *Id.* at 15. The Commission concluded that the KHSA surcharges were fair, just, and reasonable and that the removal of the Klamath dams under the terms of the KHSA was “in the best interest of customers” because it limited costs and managed risks better than relicensing the dams. *Id.* at 12.

The Commission modified the surcharge rate a number of times between 2010 and 2019 to address changes in interest rates, the amount of power sold, and the 2 percent cap imposed by ORS 757.736(3). In 2011, the Oregon legislature amended ORS 757.738 to allow the trust funds to be held in the Oregon Treasury instead of in a bank, which permitted earning a higher rate of interest. *See* Order No. 16-218, Appendix A at 3. Collection of the surcharges from Oregon customers concluded by the end of 2019. By that time, PacifiCorp had collected an amount from its Oregon customers via the surcharges that, together with interest accrued through December 2019, created a customer contribution of approximately \$184 million. Thereafter, interest continued to accrue on the funds held by the trust. The additional interest accrued since January 2020 was \$4,876,639 as of December 31, 2023.

The Renewal Corporation was formed in June 2016. On January 24, 2017, the Commission approved Funding Agreement DM#7810225 between the Commission and the Renewal Corporation.<sup>6</sup> The Funding Agreement provides a mechanism for the disbursement of

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<sup>6</sup> Order No. 17-018. The Funding Agreement is included in Appendix A to Order No. 17-018.

customer surcharge trust funds to pay the costs of the Project and authorizes Commission Staff to make disbursements from the Oregon Trust.

**E. Progress on the Project.**

As noted above, the Project cost estimate of \$450 million in the KAP and KHSA was based on an assumption that dam removal would begin in January 2020 and that all required regulatory approvals would be in place by then. While the Renewal Corporation filed the license surrender application in September 2016, FERC did not issue its license surrender order until November 17, 2022.<sup>7</sup> Accordingly, work on dam removal was delayed by at least three years from January 1, 2020 until 2023.

Dam removal commenced in 2023 and continues under a schedule established by FERC. The Copco No. 2 Dam was removed in mid-2023. Preparatory work for removal of the remaining three dams, including the draw-down of the reservoirs, was completed in February 2024. FERC has now approved an advancement in the schedule, allowing for the removal of Copco No. 1 ahead of the other remaining dams. Deconstruction of the Copco No. 1 Dam commenced in March 2024 and it is expected to be fully complete by the end of August 2024. Work on the deconstruction of the Iron Gate and J.C. Boyle Dams will likely begin sometime in May 2024, and is expected to be complete sometime this fall. The restoration of the former reservoir footprints is currently underway and will continue for several years until vegetation is successfully established as required by the license surrender order and other regulatory approvals.

The three-year delay in commencing dam removal due to the timing of FERC approval significantly affected the cost to complete the Project. The current budget for completing the Project is approximately \$503 million.<sup>8</sup> In addition to the impact of regular inflation, the time

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<sup>7</sup> *PacifiCorp Klamath River Renewal Corporation State of Oregon State of California Project Nos. 2082-063, 14803-001*, 181 F.E.R.C. ¶ 61,112 (2022).

<sup>8</sup> See Renewal Corporation's November 13, 2023 Request at 3. <https://edocs.puc.state.or.us/efdocs/HAO/ue219hao17831.pdf>

period of the delay coincided with the substantial supply-chain disruptions, cost increases, and high rate of inflation caused by the COVID-19 pandemic. As documented in its reports to the Commission since 2016, the Renewal Corporation has managed its procurement contracts, overhead, and all other aspects of this project to minimize the consequence of delay in final regulatory approval. For example, the Renewal Corporation proactively negotiated escalation amounts with its contractors, knowing that inflation numbers were tracking high. Thus, despite inflation exceeding a total of 14 percent from 2020 through 2022, the Renewal Corporation negotiated an increase to the base cost of less than 5 percent across that three-year period.

There was, however, a benefit to PacifiCorp's customers from this unanticipated delay. The Klamath dams were able to operate at least three years longer than originally expected, contributing low-cost hydroelectric power to PacifiCorp's customers. Based on PacifiCorp's economic analysis, the KHSA estimated that the power generation from the Lower Klamath Project has a customer value of \$27 million per year, reflecting lower production cost than other generation assets. *See* KHSA, Section 7.3.3. Thus, the three-year delay in start of dam removal resulted in a customer value of approximately \$81 million.

### **III. PROCEDURAL HISTORY**

On June 1, 2023, the Renewal Corporation requested that the Commission authorize disbursement of the remaining accrued interest. On June 27, 2023, the Alliance of Western Energy Consumers ("AWEC") and the Oregon Citizens' Utility Board ("CUB") filed Joint Comments opposing that request. When the Commission took no action, on November 13, 2023 the Renewal Corporation again requested that the Commission amend the Funding Agreement and authorize disbursement of the remaining accrued interest, providing further background and support. On December 1, 2023, the Commission announced that this matter would be handled as a contested case. AWEC and CUB again filed a Joint Response in opposition to the Renewal Corporation's request on December 4, 2023.

The parties held a workshop to discuss the issues on January 26, 2024, and Administrative Law Judge Katharine Mapes presided at a procedural conference on February 7, 2024 where the parties reported on that discussion. This brief is filed pursuant to the schedule established by the Commission on February 29, 2024.

It is important to note that in the two sets of Joint Comments they filed, neither AWEC nor CUB challenges any of these facts, which should be considered established:

- The Renewal Corporation has acted responsibly and prudently in managing the Project.
- The current budget of approximately \$503 million to complete the Project is reasonable.
- The remaining accrued interest of approximately \$4.88 million would be used to fund Project completion.
- The Project benefits PacifiCorp's customers.

#### IV. ARGUMENT

No rule or law requires that the remaining accrued interest be refunded to Oregon's customers. The only section of Oregon law that AWEC and CUB suggest allows the remaining accrued interest to be refunded to PacifiCorp's customers, ORS 757.736(9), does not apply here because PacifiCorp did not collect more money through the surcharges than the Commission allowed or that is needed to complete the Project. Instead, the KHSA expressly permits additional accrued interest to be used for the Project. Moreover, even if the Commission holds that ORS 757.736(9) was triggered, it still does not *require* a refund, but permits the remaining accrued interest to be used for the benefit of customers, which includes completion of the Project.

##### A. No funds have been collected in excess of those needed or allowed.

In her February 29, 2024 Memorandum, ALJ Mapes stated that the "parties should brief the threshold legal question of whether the funds in question constitute 'excess' funds." The Renewal Corporation understands this question is based upon ORS 757.736(9), which provides:



(9) If the commission determines at any time that amounts have been collected under this section in excess of those needed, or in excess of those allowed, the commission must:

(a) Direct the trustee of the appropriate trust account under ORS 757.738 to refund these excess amounts to customers or to otherwise use these amounts for the benefit of customers; or

(b) Adjust future surcharge amounts as necessary to offset the excess amounts.

Thus, the “threshold question” the parties were asked to address is whether “amounts have been *collected* under this section in excess of those needed, or in excess of those allowed” (emphasis added). Answering this question requires that we focus on the meaning of the term “collected.”

It is crystal clear from the language used in SB 76 that the term “collected” refers only to the money PacifiCorp received from its Oregon customers from imposition of the surcharges. That is how the term “collected” is used consistently in other sections of SB 76. See, for example (all emphases added):

- “[T]he commission shall require PacifiCorp to begin **collecting the surcharges** on the date that the filing is made under subsection (1) of this section, or on January 1, 2010, whichever is later, and PacifiCorp shall continue to **collect the surcharges** pending a final decision on the commission’s order...” ORS 757.736(2).
- “the total amount **collected** in a calendar year under both surcharges may not exceed more than two percent of PacifiCorp’s annual revenue requirement...” ORS 757.736(3).
- “[W]hen setting the rate for the surcharges, the commission shall ... account for the actual and expected changes in interest rates on the **collected** funds over the collection period.” ORS 757.736(7).
- “[A]ll amounts **collected** under the surcharges imposed under this section shall be paid into the appropriate trust account ...” ORS 757.736(8).

In all cases, the word “collected” in ORS 757.736 refers to the amount of money PacifiCorp received from its customers from billing the surcharges—in other words, the “principal” sums without the addition of any interest earned from investing the money. In SB 76

and all other relevant documents, the term “collected” is used differently from the term “customer contribution,” which includes the principal amount of the surcharges *plus* interest earned on those funds while held in the trust account. *See, e.g.*, ORS 757.736(7) (the surcharges were required to “be calculated based on a **collection schedule** that will fund, by December 31, 2019, Oregon’s share of the **customer contribution** of \$200 million identified in the” KAP. (emphasis added)). “Customer contribution” includes principal amounts collected through the surcharges *plus* interest earned on those amounts, which can be simply stated as follows:

**Customer Contribution = Amounts Collected From Customers + Interest Earned**

This is also how the Commission has understood and used the different terms “collected” and “customer contribution.” *See, e.g.*, Order No. 10-364 at 17 (“The surcharges are calculated to **collect** an amount that when added to interest on the **collected amount** will total \$200 million, Oregon’s share of the **customer contribution**, by December 31, 2010 [*sic*]. Pacific Power calculated this amount to be \$158.24 million, with the rate collection period beginning on March 18, 2010.”) (emphasis added).

ORS 757.736(9), the provision under scrutiny here, uses the term “collected” in precisely the same way that term is used in the other sections of SB 76. The prerequisite condition to application of that subsection — a Commission determination that “amounts have been **collected** under this section in excess of those needed, or in excess of those allowed” — unambiguously requires that PacifiCorp have received money from its customers from collection of the surcharges that is in excess of that needed for the Project or allowed by the Commission. The focus of that condition is strictly on the amount of money PacifiCorp received from its Oregon customers from billing the surcharges. It has nothing to do with the interest earned on the amounts collected.

It is undisputed that PacifiCorp has not collected amounts via the surcharges that exceed the amount needed to complete the Project or allowed by the Commission. First, no party challenges the reasonableness of the Renewal Corporation’s current budget estimate of \$503

million or disputes that the remaining accrued interest is needed to fund Project completion. Proceeds from the \$250 million California bond and the \$200 million customer contribution fall short of the \$503 million needed to complete the Project, so these additional funds are “needed.” Second, no party asserts that PacifiCorp collected money via the surcharges in an amount that exceeds what the Commission allowed. PacifiCorp collected an amount from its Oregon customers via the surcharges that, together with interest accrued, created a customer contribution of \$184 million by December 2019. That is precisely the amount that the Commission allowed, indeed required, PacifiCorp to collect from its Oregon customers. The amount collected also complies with ORS 757.736(7) because it funded Oregon’s share of the \$200 million customer contribution “*by December 31, 2019.*” The legislature placed no cap or refund obligation on the interest earned after that date. For these reasons, no “amounts have been collected under this section in excess of those needed, or in excess of those allowed,” ORS 757.736(9) has not been triggered, and the Commission may not further consider how “excess” amounts may be used “for the benefit of customers.” ORS 757.736(9)(a). There are no “excess” amounts.

The plain reading of ORS 757.736(9) is consistent with the policies behind the KHSA, SB 76, and the Commission’s orders implementing that law. The cap on collections agreed to in the KHSA was intended to “protect customers from uncertain costs of removal of the Klamath dams.” Order No. 10-364 at 8. PacifiCorp properly collected the amount it was required to collect from Oregon customers under Oregon law, and then stopped. Oregon customers were protected from excess collections and liability, which was the lawmakers’ goal in enacting SB 76, and that is why ORS 737.736(9) has not been triggered. In the end, the policy behind the cap on *collections* from Oregon customers has been achieved: customers were protected from uncertain costs and risks, and the latest disbursement request from the Renewal Corporation does not change that result.

What happened after 2019 was not what the parties assumed in 2010. Most significantly, an additional three years were required to secure the required regulatory approval from FERC.

Dam removal did not begin in 2020 as assumed, and commenced in 2023. Project costs increased during that intervening three-year period; however, the additional interest that accrued can help pay for those increased costs. PacifiCorp’s customers also benefited by that delay from an additional approximately \$81 million in low-cost power generation, which helped offset the rate impact that would have resulted from losing this source of generation.

In sum, because the amounts *collected* from customers do not exceed those allowed by ORS 757.736 or the Commission’s orders, and do not exceed the amount needed to complete the Project, ORS 757.736(9) has not been triggered and the Commission may not consider whether or how the remaining accrued interest may be used “for the benefit of customers” under ORS 757.736(9)(a).

**B. The KHSA permits remaining accrued interest to be used for the Project.**

Because ORS 757.736(9) has not been not triggered, the Commission should look elsewhere for instruction on what to do with the excess interest accrued—and the KHSA provides that instruction. Section 7.3.8(A) of the KHSA directly addresses the impossibility of “precisely estimate[ing] the amount of interest that will accrue in the Klamath Trust Accounts,” and provides in pertinent part: “To the extent the interest in the accounts exceeds \$28,000,000, the additional earnings may be used as a Value to Customers *unless* the funds are required for Facilities Removal. Nothing in this paragraph will limit the Customer Contribution to less than \$200,000,000.” (emphasis added).

Section 7.3.8(A) of the KHSA expresses the parties’ clear intention that additional accrued interest, in whatever amount, may not be used as a Value to Customers if it is required for Facilities Removal, even if that causes the customer contribution to exceed \$200 million.

The remaining accrued interest *is* required for Facilities Removal,<sup>9</sup> so the “unless” clause

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<sup>9</sup> The KHSA defines “Facilities Removal” as the “physical removal of all or part of each of the facilities to achieve at a minimum a free-flowing condition and volitional fish passage, site remediation and restoration, including previously inundated lands, measures to avoid or minimize adverse downstream impacts, and all associated permitting for such actions.” KHSA,

prevents the Commission from even considering whether it should instead be used as a Value to Customers. Therefore, the Commission should authorize disbursement of the remaining accrued interest to the Renewal Corporation to help pay for Facilities Removal.

**C. The remaining accrued interest would be used for “customer benefit.”**

Even if the Commission determines that ORS 757.736(9) is triggered because amounts have been collected in excess of those needed or in excess of those allowed — which the Renewal Corporation disputes — ORS 757.736(9) allows the excess amounts to be used “for the benefit of customers” instead of being refunded to customers, and Facilities Removal *is* in customers’ benefit.<sup>10</sup>

The legislative history of SB 76 and the Commission’s own orders clearly establish that removal of the dams is a customer benefit. At this point, there is more than a decade of record evidence, legislative history, and agency orders that establish the many benefits of dam removal to PacifiCorp’s customers. The Commission found that dam removal and the KHSA are “in the best interests of customers,” as compared to the “significant risks to ratepayers” that relicensing the Klamath dams would pose. *See* Order No. 10-364 at 12-13. Additionally, FERC decided that license surrender is in the public interest under the Federal Power Act.<sup>11</sup> Dam removal is in the best interests of PacifiCorp’s customers and funding completion of the Project with the remaining accrued interest is, therefore, “for the benefit of customers.”

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Section 1.4. Authorized funding is to be used for Facilities Removal as well as “development of the Definite Plan, all necessary permitting and environmental compliance actions, and construction/project management for Facilities Removal.” KHSA, Section 4.11.

<sup>10</sup> ORS 757.736(9)(a) authorizes the Commission to direct the trustee “to refund these excess amounts to customers **or** to otherwise use these amounts for the benefit of customers” (emphasis added). ORS 757.736(9)(b) allows excess amounts collected to be used to adjust “future surcharge amounts,” which is not applicable here because the surcharges were discontinued in 2019.

<sup>11</sup> *See PacifiCorp Klamath River Renewal Corporation State of Oregon State of California Project Nos. 2082-063, 14803-001*, 181 F.E.R.C. ¶ 61,112, at paragraph 124 (2022).

**D. The Commission should amend the Funding Agreement**

In order to fully authorize disbursement of the remaining accrued interest, the Renewal Corporation respectfully requests that the Commission amend Section 7.g of the Funding Agreement between the Commission and the Renewal Corporation<sup>12</sup> as follows (marked changes reflect requested revisions):

The Parties understand and agree that 92% of the Customer Contribution funds for the Project will be disbursed from the Oregon Trust, including any accrued interest, except however, in no event will the total funding from the Oregon Trust and the California Trust exceed \$200 million as stated in nominal dollars at the time of collection.

As shown above, nothing in SB 76 limits the amount of the customer contribution or requires a refund of the remaining accrued interest to PacifiCorp's customers; however, these minor revisions to the Funding Agreement will clarify that the remaining accrued interest may be disbursed in consideration of the current circumstances and to implement the parties' intentions in the KAP and KHSA. The first revision would make clear that all accrued interest may be disbursed to the Renewal Corporation. The second revision would bring the Funding Agreement into alignment with the KAP and KHSA, which calculate the customer contribution in terms of the value of funds when collected, not when they are expended.<sup>13</sup> These revisions would allow the disbursement of amounts in excess of \$200 million in 2024 dollars and allow use of the remaining accrued interest for the Project. This amendment would update the Funding Agreement to be in line with lawmakers' intent, as well as the intention of the parties to the KAP and the KHSA.

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<sup>12</sup> The Commission approved the Funding Agreement in Order No. 17-018 and it is included in Appendix A to that order. <https://apps.puc.state.or.us/orders/2017ords/17-018.pdf>

<sup>13</sup> The KAP defines "Nominal dollars" as "dollars that are not adjusted for inflation at the time they are collected" and states that the \$200 million customer contribution is "in nominal dollars." KAP, Sections II(A)(ix) and VI(A). Similarly, the KHSA provides that the customer contribution is in "nominal dollars." KHSA, Section 4.1.1(C).

## CONCLUSION

For the foregoing reasons, the Commission should grant the Renewal Corporation's request to authorize disbursement of the remaining accrued interest to the Renewal Corporation and to amend the Funding Agreement as discussed above.

DATED: March 27, 2024

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